

REMARKS

This is intended as a full and complete response to the Final Office Action dated January 21, 2005, having a shortened statutory period for response set to expire on April 21, 2005. Please reconsider the claims pending in the application for reasons discussed below.

Claims 1-27 are pending in the application. Claims 12-14 and 26 remain pending following entry of this response. Claims 12-14 and 26 have been amended. Claims 1-11, 15-25 and 27 have been cancelled.

Claims 1-11 and 14-25 and 27 stand rejected under 35 U.S.C. § 102(b) as being anticipated by *Fawcett* (U.S. 5,845,077). Applicants note the Examiner's Action contained an apparent typo in that the Examiner's grouping for this rejection included claim 26 and excluded claim 27. However, claim 26 was not substantively rejected under 35 U.S.C. § 102(b), while claim 27 was substantively rejected under 35 U.S.C. § 102(b). Accordingly, the rejection under 35 U.S.C. § 102(b) is presumed to apply to claims 1-11 and 14-25 and 27. In any case, Applicants have canceled the rejected claims without prejudice and reserve the right to file a continuing application.

Claims 12, 13 and 26 stand rejected under 35 U.S.C 103(a) as being unpatentable over *Fawcett*, as applied to base and intervening claims 1, 10 and 17, 24 respectively in view of *Hellerstein et al.*, US. Publication No. US. 2002/0129356 (hereinafter "*Hellerstein*"). Applicants respectfully traverse the rejection.

The present application (Serial No. 09/912,975; hereinafter the "Application") and US Publication No. US 2002/0129356 were, at the time the invention of the Application was made, owned by the same person, or subject to an obligation of assignment to the same person. Accordingly, pursuant to 35 U.S.C. § 103(c), Applicants submit that the rejection should be withdrawn, and further request that the claims be allowed.

Hellerstein is applied to the claimed step of "determining one or more software upgrade releases for the software inventory utilizing a product topology database connected to the supplier system, wherein determining one or more software upgrade releases comprises: verifying pre-requisite and co-requisite software for the software upgrade releases." Since any obviousness rejection over *Hellerstein* is overcome by

virtue of the Statement of Common Ownership, Applicants submit that claim 14, which is amended to include the step above, is also allowable. Therefore, Applicants submit the application is now in condition for allowance, and allowance of the claims is respectfully requested.

Having addressed all issues set out in the office action, Applicant respectfully submits that the claims are in condition for allowance and respectfully request that the claims be allowed.

Respectfully submitted,

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